

**ORDINANCE NO. 50-2017**

**ORDINANCE AMENDING CHAPTER 6, ARTICLE I, SECTION 6-4 OF THE CODE  
OF ORDINANCES OF THE CITY OF MONTGOMERY OVERCROWDING OF  
RETAIL BUSINESS ESTABLISHMENTS**

**SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MONTGOMERY, ALABAMA, that the Code of Ordinances of the City of Montgomery, Chapter 6, Article I, Section 6-4. Overcrowding of Retail Business Establishments be hereby amended to read as follows:**

**Section 6-4. Overcrowding of Retail Business Establishments.**

*(a) Findings by the city council.* The city council (herein called "council") of the City of Montgomery, Alabama (herein called "city"), in the State of Alabama, does hereby find and declare that there is a significant risk to the health and safety of the community from the overcrowding of business establishments; that the said overcrowding presents certain fire safety hazards to the patrons of said business establishments.

*(b) Definitions.*

*Business license* means the license granted by the city allowing an entity to operate a business establishment within the city limits.

*Business establishment* shall mean any individual, partnership, corporation, or other entity operating a business or operating a place which is used as a meeting or gathering place, and which is subject to the occupancy set out by the International Fire Code, 2015 edition, as adopted by the city council, for which an occupancy limitation has been calculated and assessed by the fire department pursuant to the said Code.

*Municipal court* means the municipal court for the city.

*Occupancy load* means the number of people that are allowed within a business establishment as calculated in accordance with the International Fire Code, 2015 edition, as adopted by the city council and posted within the said structure.

*Occurrence* means an occasion on which a business establishment has or had, within the confines of its structure, a number of people that exceeds the occupancy limits posted by the Montgomery Fire/Rescue Bureau of Inspections.

*Successor entity* means any individual, partnership, or corporate entity, whether a limited liability company, corporation, or other association of owners set up for limited liability purposes, which is a successor entity to the one for which the suspension or revocation was issued or a member, partner, shareholder, or manager of which was a member, partner, shareholder of more than one-third of the

outstanding shares, or a manager of the business entity that held the suspended or revoked license.

**(c) Imposition of Penalty for Exceeding Occupancy Limits.**

*(1) First violation occurrence.* No business establishment shall have, within the confines of its structure, a number of people that exceeds the occupancy load posted by the Montgomery Fire/Rescue Bureau of Inspections. If it is determined that a business establishment has exceeded the maximum occupancy load set by the Montgomery Fire/Rescue Bureau of Inspections on any one occasion, the establishment shall shut down for 16-hours. After the 16 hours, the business may reopen for their normal business hours.

The owner/occupant shall attend the next scheduled council meeting following the date of violating the International Fire Code, 2015 edition, Chapter 1, section 107.6 to defend their action before the City Council.

Failure of the business owner to appear at the next scheduled City Council Meeting shall result in immediate suspension of the business license until the business owner has appeared before the Council.

If the City Council finds that a business has exceeded the approved occupancy load set by the Montgomery Fire/Rescue Bureau of Inspections, the owner/manager shall be assessed an administrative fee based on the number of people found over the occupant load. This administrative fee will be determined by the percentage over the established occupant load which will define the rate charged per person over the occupant load.

Table A.

| Percentage over Occupant Load | Dollar amount Per Person |
|-------------------------------|--------------------------|
| 1% to 25 %                    | \$ 25                    |
| 26 % to 50 %                  | \$ 50                    |
| 51% to 75 %                   | \$ 75                    |
| 76% to 100 %                  | \$ 100                   |

*(2) Second violation occurrence.* If an establishment is found to be over the approved occupant load set by the Montgomery Fire/Rescue Bureau of Inspections for a second occurrence less than one year from the previous occurrence, the business shall shut down for 16-hours. After the 16 hours, the business may reopen for their normal business hours.

The owner/occupant shall attend the next scheduled council meeting following the date of violating the International Fire Code, 2015 edition, Chapter 1, section 107.6 to defend their action before the City Council

If the City Council finds that a business has exceeded the approved occupancy load set by the Montgomery Fire/Rescue Bureau of Inspections on a second occasion, which is less than one year from the previous occurrence, the owner/manager shall be given an administrative fee based on the number of people found over the occupant load. This administrative fee will be determined by the percentage over the established occupant load which will define the rate charged per person over the occupant load. In addition, the current business license for the said business establishment may be revoked by the City Council.

Failure of the business owner to appear at the next scheduled City Council Meeting shall result in immediate suspension of the business license until the business owner has appeared before the Council.

No business license shall be granted to the business establishment that has been revoked due to a second violation of overcrowding within a 12 month period without City Council approval.

*(3) Third violation occurrence.* If an establishment is found to be over the approved occupant load set by the Montgomery Fire/Rescue Bureau of Inspections for a third occurrence less than one year from the first occurrence, the business shall shut down until a hearing is held before the City Council.

The owner/occupant shall attend the next scheduled council meeting following the date of violating the International Fire Code, 2015 edition, Chapter 1, section 107.6 to defend their action before the City Council.

Failure of the business owner to appear at the next scheduled City Council Meeting shall result in immediate suspension of the business license until the business owner has appeared before the Council.

If the city council finds that a business has exceeded the approved occupancy load set by the Montgomery Fire/Rescue Bureau of Inspections on a third occasion, which is less than one year from the previous two occurrences, then the owner/manager shall be given an administrative fee based on the number of people found over the occupant load. This administrative fee will be determined by the percentage over the established occupant load which will define the rate charged per person over the occupant load. In addition, the current business license for the said business establishment may be revoked by the city council. No business license shall be granted to the business establishment that has been revoked due to a third violation of overcrowding within a 12-month period without City Council approval.

**(d) Enforcement Procedures**

- (1) The Montgomery Fire/Rescue Bureau of Investigations and the city police department are responsible for the enforcement of the provisions of this section and

are duly authorized and empowered to check occupancy levels at business establishments.

- (2) Following appearance before the City Council, Montgomery Fire/Rescue Bureau of Investigations shall serve the owner/manager with the findings of the City Council.
- (3) All administrative fees are to be satisfied with the City of Montgomery before the annual renewal of the business license. The administrative fee shall be paid to Montgomery Fire/Rescue at 19 Madison Avenue Fire Department Headquarter.
- (4) Once a business establishment has been shut down due to violation of this ordinance, a notice shall be posted at or near the front door or main entrance of the business establishment stating that a hearing shall be held before the City Council. The hearing date and time shall be the next scheduled city council meeting clearly displayed on the notice. The purpose of said hearing is to determine whether the business establishment was in violation of International Fire Code, 2015 edition, Chapter 1, section 107.6. The notice shall state that all interested parties shall have the opportunity to be heard by the City of Montgomery in open session prior to its determination.
- (5) This section shall not bar or limit any prosecution under other criminal ordinances or statutes or the imposition of criminal penalties for the same act, acts, or set of circumstances. Further, this section shall in no way limit the civil liability of any business establishment or entity and shall in no way limit or affect the power and authority of the mayor to otherwise enforce all laws and ordinances.

**SECTION II.** This ordinance shall become effective upon passage, approval and publication or as otherwise provided by law.

ADOPTED this the 2nd day of May, 2017.

MAY 04 2017

APPROVED: \_\_\_\_\_

  
TODD STRANGE, MAYOR

ATTEST:

  
BRENDA GALE BLALOCK, CITY CLERK

50-2017